

election law

Who Can Vote

VOTER QUALIFICATIONS

A qualified voter of the state is a person who:

1. Is a citizen of the United States;
2. Is 18 years of age or older;
3. Is a resident of this state and of the precinct at least thirty days next preceding any election; and
4. Is not presently serving a term of actual incarceration as a convicted felon. NDCC §§ 16.1-01-04 and 12.1-33-01

The following rules for voting eligibility also apply.

- Every qualified elector of the state may only have one voting residence.
- A person's voting residence must be determined in accordance with the rules for determining residency as provided in Section 54-01-26 of the North Dakota Century Code (NDCC).
- Pursuant to Section 2 of Article II of the Constitution of North Dakota, voting by persons convicted and sentenced for treason or felony must be limited according to Chapter 12.1-33.
- No person who has been declared mentally incompetent by order of a court or other authority having jurisdiction, which order has not been rescinded, shall be qualified to vote. NDCC § 16.1-01-04 and Section 2 of Article II of the Constitution of North Dakota

A person's place of residence must be determined according to the rules defined in Section 54-01-26 of the NDCC that states: Every person has in law a residence. In determining the place of residence, the following rules must be observed:

- It is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.
- There can only be one residence.
- A residence cannot be lost until another is gained.
- A residence can be changed only by the union of act and intent. NDCC § 54-01-26

VOTER DISQUALIFICATIONS

Voting rights are lost if a person has been:

1. Convicted of a felony and sentenced to a term of imprisonment. However, the persons voting rights are lost only during the time of actual incarceration.
2. Declared mentally incompetent by order of a court. Article II, § 2, Constitution of North Dakota, and NDCC § 16.1-01-04

VOTER DISABILITY

Any voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union. Moreover, a candidate or the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister of any candidate may not provide assistance to a voter. If the voter requests the assistance of a member of the election board, both election judges are required to assist the voter. NDCC § 16.1-13-27

A person who assists a disabled voter may not discuss issues involving a candidate or a ballot measure. NDCC § 16.1-13-27

Any person chosen to assist a voter who requests the voter to vote for or against any person or issue shall be guilty of a class B misdemeanor. NDCC § 16.1-13-28

VOTING PROCEDURES

When a qualified voters moves from one precinct to another within this state, the voter is entitled to vote in the precinct from which he moved until he has established a new residence. NDCC § 16.1-01-05

Example: A person may continue voting in their former precinct if they have not yet gained residence in their new precinct by residing in their new precinct for thirty days.

A new resident and former resident of this state who have failed to meet voting residence requirements in their new location, but are otherwise eligible to vote, may cast their vote only for presidential candidates. NDCC §§ 16.1-14-18 and 16.1-14-19

A poll challenger or election board member may request that a person offering to vote provide an appropriate form of identification to address any of the voting eligibility concerns listed above. If the identification provided does not adequately resolve the voter eligibility concerns of the poll challenger or election board member, the challenged person shall stand aside and the voter shall not be allowed to vote unless he completes an affidavit of eligibility to vote. Once the affidavit is completed, an individual who wishes to vote may not be prevented from doing so. NDCC § 16.1-05-06

Before delivering any ballot to a qualified voter, official ballots must be stamped and initialed by the inspector or judge in the rectangle provided on the ballot or ballot card and ballot envelope. Moreover, the inspector or judge must inform each voter that if the ballot is not stamped and initialed by an election official it will be invalidated and to protect their right to vote the voter should make sure the ballot is stamped and initialed. Stamping is not required if the information is printed on the ballot. NDCC §§ 16.1-06-04(8), 16.1-06-18, and 16.1-13-22

Voters must not split their vote for political parties in the primary election. They can only vote for persons in one party in the primary. If a voter casts votes in more than one party column and votes for candidates of more than one party, the party ballot will be rejected. NDCC §§ 16.1-11-22 and 16.1-13-22

When an electronic voting system is used, the ballot stub must not be detached by the voter. If this occurs, the ballot is spoiled. NDCC § 16.1-13-22

If a voter spoils the ballot, he can get a new one after returning the spoiled ballot to an election official. However an individual is not allowed more than three (3) new ballots. NDCC § 16.1-13-32

After retiring to a voting booth, voters must mark their ballots with a cross mark (X) or other mark which clearly shows the intention of the voter, then fold the ballot or conceal it with the secrecy sleeve provided so votes cannot be seen, and return to the election official. The election official will put the ballot in the ballot box. NDCC § 16.1-13-23

Voters may write in or paste in names of candidates for office. In this instance, no other marking of the ballot is necessary in order for the write-in votes to be counted. NDCC § 16.1-13-25

No voter can remove a ballot from the polling place before the close of the polls. NDCC § 16.1-13-31

No more than one voter can be in a voting booth at one time except when providing lawful assistance. NDCC § 16.1-13-30

No political badges, buttons, or insignias may be worn at or about the polls on election day. NDCC § 16.1-10-03

Within the polling place, no one, except a disabled voter receiving assistance in the marking of their ballot, may reveal the name of a candidate that they are supporting. NDCC § 16.1-13-27

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Prohibited Conduct

ELECTION LAW OFFENSES

16.1-01-12. Election offenses - Penalty. It is unlawful for a person to:

1. Fraudulently alter another person's ballot or substitute one ballot for another or to otherwise defraud a voter of that voter's vote.
2. Obstruct a qualified elector on the way to a polling place.
3. Vote or offer to vote more than once in any election.
4. Knowingly vote in the wrong election precinct or district.
5. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
6. Knowingly exclude a qualified elector from voting or knowingly allow an unqualified person to vote.
7. Knowingly vote when not qualified to do so.
8. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
9. Sign a name other than that person's own name to an initiative, referendum, recall, or any other election petition.
10. Circulate an initiative, referendum, recall, or any other election petition not in its entirety or circulate such a petition when unqualified to do so.
11. Pay or offer to pay any person, or receive payment or agree to receive payment, on a basis related to the number of signatures obtained for circulating an initiative, referendum, or recall petition. This subsection does not prohibit the payment of salary and expenses for circulation of the petition on a basis not related to the number of signatures obtained, as long as the circulators file their intent to remunerate prior to submitting the petitions and fully disclose all expenditures and revenues upon submission of the petitions to the secretary of state.
12. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
13. Willfully violate any rule adopted by the secretary of state pursuant to this title.
14. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to the person's care.
15. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.

A violation of subsections 1 through 14 is a class A misdemeanor. Any signature obtained in violation of subsection 11 is void and may not be counted. A violation of subsection 15 occurring after an election but before the final canvass, or during an election, is a class C felony, and in other cases is a class A misdemeanor. Every act which by this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to qualified electors to be decided by votes cast at an election.

16.1-10-03. Political badge, button, or insignia at elections. On the day of an election, no person may buy, sell, give, or provide any political badge, button, or any insignia to be worn at or about the polls on that day. No such political badge, button, or insignia may be worn at or about the polls on any election day.

16.1-10-06. Electioneering on election day - Penalty. Any person asking, soliciting, or in any manner trying to induce or persuade, any voter on an election day to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people, is guilty of an infraction. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure, and political advertisements promoting the candidacy of any individual, political party, or a vote upon any measure which are displayed on fixed permanent billboards, may not, however, be deemed a violation of this section.

16.1-10-06.1. Paying for certain election-related activities prohibited. No person may pay another person for:

1. Any loss or damage due to attendance at the polls;
2. Registering;
3. The expense of transportation to or from the polls; or
4. Personal services to be performed on the day of a caucus, primary election, or any election which tend in any way, directly or indirectly, to affect the result of such caucus or election.

The provisions of this section do not apply to the hiring of a person whose sole duty it is to act as a challenger and to watch the count of official ballots.

16.1-10-06.2. Sale or distribution at polling place. No person may approach a person attempting to enter a polling place, or who is in a polling place, for the purpose of selling, soliciting for sale, advertising for sale, or distributing any merchandise, product, literature, or service. This prohibition applies in any polling place or within one hundred feet [30.48 meters] from any entrance leading into a polling place on election day.

16.1-10-07. Candidate guilty of corrupt practice to vacate nomination of office. If any person is found guilty of any corrupt practice the person must be punished by being deprived of the person's government job, or the person's nomination or election must be declared void, as the case may be. This section does not remove from office a person who is already in office and who has entered upon the discharge of the person's duties where such office is subject to the impeachment provisions of the Constitution of North Dakota.

16.1-10-08. Penalty for violation of chapter. Any person violating any provision of this chapter, for which another penalty is not specifically provided, is guilty of a class A misdemeanor.

16.1-06-24. Voting machines - Violations - Penalty. Any person who violates any of the provisions of this chapter or who tampers with or injures any voting machine to be used or being used in any election, or who prevents the correct operation of any such machine, or any unauthorized person who makes or has in the person's possession a key to a voting machine to be used or being used in an election is guilty of a class A misdemeanor.

16.1-06-25. Electronic voting systems - Violations - Penalty. Any person who violates any of the provisions of this chapter relating to electronic voting systems, who tampers with or injures any electronic voting system or device to be used or being used in any election, or who prevents the correct operation of any such system or device to be used or being used in any election is guilty of a class A misdemeanor.

16.1-13-28. Penalty for requesting voter to vote in certain manner. Any person chosen to assist a voter who shall request the voter the person is assisting to vote for or against any person or any issue is guilty of a class B misdemeanor.

16.1-07-14. Penalty. Any person who violates any of the provisions of this chapter (Absent Voters Ballot) is guilty of a class A misdemeanor.

12.1-14-03. Safeguarding elections. A person is guilty of a class A misdemeanor if, in connection with any election, he:

1. Makes or induces any false voting registration;
 2. Offers, gives, or agrees to give a thing of pecuniary value to another as consideration for the recipient's voting or withholding his vote or voting for or against any candidate or issue or for such conduct by another;
 3. Solicits, accepts, or agrees to accept a thing of pecuniary value as consideration for conduct prohibited under subsection 1 or 2; or
 4. Otherwise obstructs or interferes with the lawful conduct of such election or registration therefor.
- As used in this section, "thing of pecuniary value" shall include alcoholic beverages, by the drink or in any other container.

12.1-14-02. Interference with elections. A person is guilty of a class A misdemeanor if, whether or not acting under color of law, he, by force or threat of force or by economic coercion, intentionally:

1. Injures, intimidates, or interferes with another because he is or has been voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.
2. Injures, intimidates, or interferes with another in order to prevent him or any other person from voting for any candidate or issue or qualifying to vote, qualifying or campaigning as a candidate for elective office, or qualifying or acting as a poll watcher or other election official, in any primary, special, or general election.